



291 Country Club Drive  
Incline Village, NV 89451

September 16, 2011

Mr. Jack Clarke, Chair  
Lahontan Regional Water Quality Control Board  
2501 Lake Tahoe Blvd  
South Lake Tahoe, CA 96150

Dear Mr. Clarke and members of the Lahontan RWQCB,

Please allow me to make a few comments regarding the Monitoring and Reporting Program contained as Attachment C in Order No. R6T-2011 (TENT) for NPDES No. CAG616001 – *Storm Water/Urban Runoff Discharges from El Dorado County, Placer County, and the City of South Lake Tahoe within the Lake Tahoe Hydrologic Unit.*

By way of introduction, since 2002 I have served as the Science Coordinator for the Lake Tahoe TMDL for both California and Nevada, and have 33 years of experience studying water quality at Lake Tahoe. The technical advances that the TMDL science/technical team were able to make in understanding pollutant sources, quantifying numeric targets for load reduction, and providing input on pollutant load reduction opportunities are important cornerstones for the Tahoe TMDL that was recently signed. Board staff and the science team were able to work hand-in-hand to make this TMDL one of the most technically comprehensive programs on record. It was a proud day when your Board adopted the Tahoe TMDL and equally as proud when the Governor's of California and Nevada and the USEPA Regional Administrator signed the approval page during the August Tahoe Federal Summit. This feeling was underscored in a USEPA Region IX newsletter that stated "*The TMDL and its Implementation Plan are the result of a ten-year development effort funded by state and federal agencies. Both the scientific research and stakeholder input that underpin the final restoration plan are among the most advanced ever applied to a TMDL in the nearly 40-year history of the Clean Water Act.*" High praise indeed, and something to live up to!

The Lake Tahoe TMDL received considerable national attention during its development and was recognized as a "cutting edge" approach to a very difficult problem. Quite honestly, the effort Lake Tahoe does not represent a 'garden variety TMDL' nor just another 'bean to be put in the jar' as the states try to comply with federal regulations. A very significant sum of public funds has already been spent towards efforts to restore Lake Tahoe and its watershed, and the TMDL report estimates that even a larger investment will have to be made in the future to reach TMDL targets. Consequently, this is the time that both states and the TRPA need to insure that the implementation of the Environmental Improvement Plan (EIP) to comply with the TMDL is approached with the same level of commitment and ownership that we had during the initial development of the TMDL. It is no time to rest on our laurels.

The purpose of my comments on the NPDES monitoring and reporting document is not to provide a detailed, revised plan. This would be beyond the scope of a comment letter, and as suggested below requires the input from more than just one commenter.

During previous workshops on the TMDL, the Lake Clarity Crediting Program, and load reduction modeling tools, I was asked to participate by making public presentations on how the monitoring program would reduce the uncertainty of load reduction estimates. My strong opinion is that the use of these modeling tools to inform TMDL crediting – which is at the heart of the load reduction evaluation process – is not justified unless the right monitoring sites and the right data is collected to validate and periodically recalibrate the models. Without delving into the details at this time, I do not believe that the proposed NPDES language creates the monitoring plan that I was referring to during the public/stakeholder meetings. Given the non-traditional, yet sophisticated approach for developing credits through a data-supported modeling effort, it is imperative that stakeholders have confidence in this approach. A monitoring program that does not try to reach the same ‘high bar’ we used in the development of TMDL is likely to be problematic in the future.

This is not to say that all the features of the current monitoring plan are inadequate, rather, this language should be used as a starting point. However, the present permit language does not provide an adequate justification for the stated monitoring requirements. For example, will the monitoring plan provide the level of statistical robustness needed track changes and evaluate progress; how effective are the models in doing their intended job; and is the plan sufficient to establish long-term trends? Since the time frame for the Clarity Challenge is 15 years and 65 years for the complete TMDL – tracking long-term progress is critical. The permit language does not really directly speak to these important issues. If meeting the Clarity Challenge will cost on the order of 1 billion dollars of targeted funding as suggested in the TMDL document, the Permit – which to my understanding is in place for five years – needs to explain what will come out of the monitoring effort in much more detail.

A number of years ago, the USEPA Region IX requested and received funding from the Southern Nevada Public Lands Management Act to collaborate with Lahontan and NDEP to develop the Lake Tahoe TMDL Management System (TMDL MS). The goal of this project was to establish the framework from which TMDL progress could be evaluated and to coordinate existing and new monitoring programs in an adaptive management approach, i.e. if TMDL milestones were not being met, use the data to determine why not. My opinion (and I could be wrong) was that the TMDL MS would also serve as the entity that housed the pollutant reduction models and used monitoring data to revise and validate results. However, I do not see much or anything at all on the TMDL MS in the draft Permit. While I understand that different legal documents have their own purpose, there is a significant risk that stakeholders will not see the intended connections or in the worst case, invaluable connections can be lost unless the documents tell a complete story.

In summary, I request that the Board consider the following points in their upcoming deliberation on the NPDES Permit and the Lake Tahoe TMDL:

1. Attachment C (monitoring and reporting) should be written with a technically based explanation of why the particular monitoring design that is finally selected was selected; how will the monitoring information be used in a Lake Tahoe TMDL Management System; and how will the frequency of sampling, parameters, etc. help to insure that that TMDL progress on urban stormwater is being met.

While stakeholders can debate these issues, at least a logical pathway that explains the process will be available. As it stands now, the draft permit language simply too vague. This can lead to mistrust and other issues. While this level of draft permit language may (or may not) be common in other permits, keep in mind that the Lake Tahoe TMDL is not common; especially since its ultimate success depends on stakeholder involvement. In my opinion, stakeholders need to see a transparent process with justification for actions based on science and principles of environmental conservation.

2. While I perfectly understand, and even support the point of view that many jurisdictions simply do not have the resources needed to implement a full monitoring program at this time, that is no reason why such a program should not be designed and have it stated that this is what the State of California would really like to see to help fulfill its charge in the protection Lake Tahoe. Policy should be based on sound principles, however, its implementation can not turn a blind eye to the economic realities. Given the current financial environment, it may not be possible to carry this out at the moment. I trust, that the citizen's of California can understand this distinction and that the Board can create a solution whereby the stakeholders are assured that there is a good environmental protection plan while acknowledging and accommodating for the current difficult financial landscape.

3. I would be willing to try to assemble a technical team comprised of university researchers, the environmental consulting scientists who developed the load reduction models and members of the local jurisdictions who have the responsibility for carrying out the monitoring plan. This would constitute a technical team that would then pass on alternatives and recommendations to staff from your Board and other TMDL agencies. The technical team would not be responsible for policy, rather we would provide scientific information.

4. Given the importance of the Lake Tahoe TMDL, I would also recommend that once the technical work is done and the policy decisions are made that that document be sent out for peer-review.

Thank you for the opportunity to make these comments to the Board and I hope you will at least some of them helpful. My only goal is to promote the conservation of this unique resource and to insure that science can play any role it can in making sure that a large expenditure of public funds is done in the most prudent manner possible.

Respectfully,

A handwritten signature in black ink that reads "John E. Reuter". The signature is written in a cursive, flowing style.

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